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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,962	04/17/2000	Akihiro Yamashita	MAT-7947US	1642

7590 05/18/2004

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EXAMINER

ABDULSELAM, ABBAS I

ART UNIT	PAPER NUMBER
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2674

23

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/550,962

Applicant(s)

YAMASHITA, AKIHIRO

Examiner

Abbas I Abdulsalam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15 and 18-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,18 and 21 is/are rejected.
- 7) ☒ Claim(s) 2,4,6-15,19,20 and 22-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 20.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see # 22, filed 03/04/04, with respect to the rejection(s) of claim(s) 1-2, 4-15, 18-30 under U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yamashita et al. (USPN 6222323).

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 5, 18 and 21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent No. 6222323. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1 of the present application is met by claims 7 and 9-10 of the patent. It would have been obvious that the determination of "luminance, LP" as used in the present application is equivalent and corresponds a "brightness setter" as used in the patent. It would have been

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obvious that a "display controller" as used in the present application is equivalent and corresponds to "controller" as used in the patent. It would have been obvious that the determination of discharge times (Tx, Rt) as used in the present application are equivalent correspond to "external information wherein external information is sent from at least one of a clock" and an input section through which desirable information is supplied" as used in the patent.

Claim 5 of the present application is met by claims 7 and 9-10 of the patent. It would have been obvious that the determination of "luminance, LP" as used in the present application is equivalent and corresponds a "brightness setter" as used in the patent. It would have been obvious that the determination of discharge times (Tx, Rt) as used in the present application are equivalent correspond to "external information wherein external information is sent from at least one of a clock" and an input section through which desirable information is supplied" as used in the patent.

Claim 18 of the present application is met by claims 7 and 9-10 of the patent. It would have been obvious that the determination of "luminance, LP" as used in the present application is equivalent and corresponds a "brightness setter" as used in the patent. It would have been obvious that a "display controller" as used in the present application is equivalent and corresponds to "controller" as used in the patent. It would have been obvious that the determination of discharge times (Tx, Rt) as used in the present application are equivalent correspond to "external information wherein external information is sent from at least one of a

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clock” and an input section through which desirable information is supplied” as used in the patent.

Claim 21 of the present application is met by claims 7 and 9-10 of the patent. It would have been obvious that the determination of “luminance, LP” as used in the present application is equivalent and corresponds a “brightness setter” as used in the patent. It would have been obvious that the determination of discharge times (Tx, Rt) as used in the present application are equivalent correspond to “external information wherein external information is sent from at least one of a clock” and an input section through which desirable information is supplied” as used in the patent.

Allowable Subject Matter

3. Claims 2, 4, 6-15, 19-20 and 22-30 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to **Abbas Abduselam** whose telephone number is **(703) 305-8591**. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richard Hjerpe**, can be reached at **(703) 305-4709**.

Any response to this action should be mailed to:

Commissioner of patents and Trademarks

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Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand delivered responses should be brought to Crystal Park II, Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology center 2600 customer Service office whose telephone number is (703) 306-0377.

Abbas Abdulsalam

Examiner

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May 14, 2004


XIAO WU
PRIMARY EXAMINER